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Chapter No. 360
15/SS26/R588SG
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SENATE BILL NO. 2093

Originated in Senate

Liz Welch

Secretary

SENATE BILL NO. 2093

AN ACT TO AMEND SECTION 77-5-231, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ANY GENERATION AND TRANSMISSION ELECTRIC POWER ASSOCIATION TO UNDERTAKE ECONOMIC DEVELOPMENT ACTIVITIES WHETHER DIRECTLY, INDIRECTLY, OR IN CONJUNCTION WITH OTHER ENTITIES; TO AMEND SECTION 77-3-2, MISSISSIPPI CODE OF 1972, TO DECLARE THAT IT IS THE POLICY OF THE STATE OF MISSISSIPPI TO SUPPORT AND AUGMENT THE ECONOMIC DEVELOPMENT ACTIVITIES OF RATE-REGULATED PUBLIC UTILITIES; TO CREATE NEW SECTION 77-3-44, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ANY RATE-REGULATED ELECTRIC PUBLIC UTILITY WITH CERTIFICATED SERVICE AREA IN MISSISSIPPI TO UNDERTAKE ECONOMIC DEVELOPMENT ACTIVITIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-5-231, Mississippi Code of 1972, is amended as follows:

77-5-231. (1) A corporation created under the provisions of this article shall have power to do any and all acts or things necessary or convenient for carrying out the purposes for which it was formed, including, but not limited to:

- (a) To sue and be sued.
- (b) To have a seal and alter the same at pleasure.

(c) To acquire, hold and dispose of property, real and personal, tangible and intangible, or interests therein and to pay therefor in cash or property or on credit, and to secure and procure payment of all or any part of the purchase price thereof on such terms and conditions as the board shall determine.

(d) To render service and to acquire, own, operate, maintain and improve a system or systems within the state and in counties adjacent thereto.

(e) To pledge all or any part of its revenues and to mortgage or otherwise incumber all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its bonds or other obligations.

(f) To use any right-of-way, easement or other similar property right necessary or convenient in connection with the acquisition, improvement, operation or maintenance of a system, granted by the state or any political subdivision thereof, provided that the governing body of such political subdivision shall consent to such use, and to have and exercise the power of eminent domain in the manner provided by the condemnation laws of this state for acquiring private property for public use, such right to be paramount except as to the property of the state or of any political subdivision thereof.

(g) To accept gifts or grants of money, property, real or personal, from any person, municipality or federal agency and to accept voluntary and uncompensated services.

(h) To make any and all contracts necessary or convenient for the full exercise of the powers in this article granted, including, but not limited to, contracts with any person, federal agency, state agency or municipality for the purchase, transfer or sale of energy and/or the acquisition of all or any part of any system, and in connection with any such contract to stipulate and agree to such covenants, terms and conditions as the board may deem appropriate, including covenants, terms and conditions with respect to the resale rates, financial and accounting methods, services, operation and maintenance practices and the manner of disposing of the revenues of the system operated and maintained by the corporation.

(i) To sell, lease, or otherwise dispose of all or any part of its property, subject however to the provisions of Section 77-5-237.

(j) To contract debts, borrow money and to issue, assume or indorse the payment of bonds or other evidences of indebtedness.

(k) To fix, maintain and collect fees, rents, tolls and other charges for services rendered.

(l) To acquire and to sell, lease, distribute and generally to deal in electrical and plumbing appliances, apparatus, machinery and equipment for the purpose of and in connection with the promotion of the sale of electric energy to its customers; to assist its customers to purchase or otherwise

obtain such appliances, apparatus, machinery and equipment; to assist its customers to wire their premises and to install therein such appliances, apparatus, machinery and equipment; to acquire and to indorse, sell, pledge, hypothecate and dispose of notes, bonds and other obligations of its customers in carrying out the purposes expressed in this paragraph.

* * *

(* * *m) To condemn any land, easements, or rights-of-way, either on, under, or above the ground, as the association may deem necessary for any purposes mentioned in this article other than the purposes described in subsection (2) of this section, and such property or interest in such property may be so acquired whether or not the same is owned or held for public use by corporations, associations or persons having the power of eminent domain, or otherwise held or used for public purposes. Such power of condemnation may be exercised in the mode or method of procedure prescribed by Chapter 27, Title 11, Mississippi Code of 1972, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain. Where condemnation proceedings become necessary, the judge of the circuit court or the judge of the county court in counties where the county court exists, in which such proceedings are filed, shall, upon application of the authority, and upon the deposit in court, to the use of the person or persons lawfully entitled

thereto, of such amount as the judge may deem necessary to assure just compensation, order that the right of possession shall issue immediately or as soon and upon such terms as the judge, in his discretion, may deem just and proper. Upon application of the parties in interest other than the corporation, the judge may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the just compensation to be awarded in said proceedings.

(n) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents and employees, or by contracts with any person, federal agency or municipality.

(2) Any generation and transmission electric corporation created under this article may undertake economic development activities, whether directly, indirectly, or in conjunction with other entities, including activities such as providing capital, or investment in or acquisition and development of business or industrial sites and the necessary infrastructure or services needed to attract new or existing businesses or industry, to create or maintain employment opportunities, or otherwise to positively impact its service territory or in some manner promote the sale of electric energy.

SECTION 2. Section 77-3-2, Mississippi Code of 1972, is amended as follows:

77-3-2. (1) The Legislature finds and determines that the rates, services and operations of public utilities as defined in this title are affected with the public interest and that the availability of an adequate and reliable service by such public utilities to the people, economy and government of the State of Mississippi is a matter of public policy. The Legislature hereby declares to be the policy of the State of Mississippi:

(a) To provide fair regulation of public utilities in the interest of the public;

(b) To promote the inherent advantage of regulated public utilities;

(c) To promote adequate, reliable and economical service to all citizens and residents of the state;

(d) To provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices and consistent with long-term management and conservation of energy resources by avoiding wasteful, uneconomic and inefficient uses of energy;

(e) To encourage and promote harmony between public utilities, their users and the environment;

(f) To foster the continued service of public utilities on a well-planned and coordinated basis that is consistent with the level of service needed for the protection of public health and safety and for the promotion of the general welfare;

(g) To cooperate with other states and the federal government in promoting and coordinating interstate and intrastate public utility service and reliability;

(h) To encourage the continued study and research for new and innovative rate-making procedures which will protect the state, the public, the ratepayers and the utilities, and where possible reduce the costs of the rate-making process * * *; and

(i) With respect to rate-regulated public utilities, to foster, encourage, enable and facilitate economic development in the State of Mississippi, and to support and augment economic development activities, and to authorize and empower the Public Service Commission, in carrying out its statutory responsibilities, to take every opportunity to advance the economic development of the state.

(2) To these ends, therefore, authority shall be vested in the Mississippi Public Service Commission to regulate public utilities in accordance with the provisions of this title.

(3) (a) The commission shall, in addition to its other powers and duties, be authorized and empowered, in its discretion, to consider and adopt a formula type rate of return evaluation rate which may include provision for the commission to:

(i) Periodically review and adjust, if required, the utility's level of revenues based upon the actual books and records of the utility which are periodically the subject of independent audits and regulatory audits;

(ii) Review the utility's performance in certain areas or categories which may be used by the commission in the manner selected by it which may include rate incentives or penalties so long as such are found to be fair and reasonable and result in a level of revenue which is fair and reasonable; and

(iii) Use such other provisions which may be permitted by this chapter.

(b) When a formula type rate of return evaluation rate with periodic revenue adjustments is adopted by the commission, each periodic revenue adjustment will be separately considered for the purpose of determining whether a hearing is required pursuant to Section 77-3-39(1), and no such hearing shall be required if the amount of any separate periodic adjustment to the level of revenues of the utility is not a "major change" as defined in Section 77-3-37(8).

(c) In administering any such formula type rate of return evaluation rate, the following procedures shall be observed by the commission:

(i) Each periodic evaluation shall be supported with a sworn filing by the utility incorporating the data specified in the formula rate adopted by the commission, and such data shall be verified by the commission; and

(ii) A hearing shall be required, as provided by law, to determine compliance with the formula rate plan and the accuracy of the data prior to any change in the level of revenues

if the cumulative change in any calendar year exceeds the greater of Two Hundred Thousand Dollars (\$200,000.00) or four percent (4%) of the annual revenues of the utility.

(d) The requirements of paragraphs (a), (b) and (c) of this subsection and other applicable provisions of Title 77, Chapter 3, Article 1, Mississippi Code of 1972, which are observed by the commission in administering such rate, are hereby declared to be procedural but are not required to be included in the rate itself.

(4) It is the intention of the Legislature to validate, retroactively to its initial adoption by the commission, any formula type rate, including any revenue adjustments effected pursuant thereto, which has heretofore been adopted by the commission. For the purposes of the retroactive validation and the administration of any formula type rate heretofore adopted by the commission, should the provisions of Title 77, Chapter 3, Article 1, Mississippi Code of 1972, conflict with any provisions of such formula type rate, Title 77, Chapter 3, Article 1, Mississippi Code of 1972, shall be interpreted to prevail and the formula type rate shall hereafter be administered or revised to conform to Title 77, Chapter 3, Article 1, Mississippi Code of 1972; provided, however, such conflict, if any, shall not be held to invalidate the retroactive effect of this section upon such rate.

SECTION 3. The following shall be codified as Section 77-3-44, Mississippi Code of 1972:

77-3-44. Any rate-regulated electric public utility with certificated service area in Mississippi may undertake economic development activities, whether directly or indirectly, including activities such as providing capital, or investment in or acquisition and development of business or industrial sites and the necessary infrastructure or services needed to attract new or existing businesses or industry, to create or maintain employment opportunities, or otherwise to positively impact or in some manner promote the sale of electric energy within its certificated service area. Any facilities developed, constructed or acquired in support of the activities described in this section for which a certificate of public convenience and necessity or other commission approval has been granted after the effective date of this act, as well as any capital investment in natural gas reserves made directly or indirectly by an electric public utility to foster long-term stability in the cost of fuel, may be deemed used and useful in the provision of electric service regardless of whether or not any end-use customers are taking service from said facilities or investment and otherwise recoverable through the utility's rates.

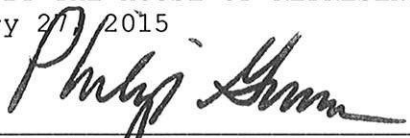
SECTION 4. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE SENATE
February 11, 2015




PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
February 27, 2015



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR
3/17/15
12:30pm